

Remarks

1. This Amendment is responsive to the Office Action dated December 4, 2003. Claims 7-11 are allowable but objected to; claims 2-6 remain for consideration.

1,2. Claims 1-3, 5 and 6 are rejected as anticipated by McElroy. McElroy has two sets of fuel cells which can be operated either in cascade or in parallel, to suit ordinary electricity producing, load satisfying requirements. The entire reference should be considered (MPEP 2141.02, last paragraph). Even those portions which teach away from the claimed subject matter. At the top of column 7, McElroy teaches "one-third of the fuel cells 150 contained in system 100 are contained in fuel cell stack 200 and two-thirds of fuel cells 150 contained in system 100 are contained in fuel cell stack 300". This is clearly the opposite of "in which the number of fuel cells in each group exceeds the number of fuel cells in any group downstream thereof in said fuel flow field", as called for in lines 6 and 7 of original claim 1. Further, McElroy is set up for the special case of only two sets of fuel cells stacks, and although he suggests it could be more, he does not suggest how that might be achieved. In MPEP 706.02(a), under "DISTINCTION BETWEEN 35 U.S.C. 102 AND 103", it is stated "for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention...." A reference that teaches away cannot anticipate (MPEP 2141.02; 2145(j)(4); 2145XD; 2143.01). Therefore, teaching away from the language of lines 6 and 7 of claim 1, McElroy does not anticipate.

With respect to original claim 3, McElroy does not teach purging at all but simply operating one way or the other as one sees fit in dependence upon the load. Therefore, McElroy cannot anticipate claim 3. The rejection of claim 3 refers only to a controller. However, that does not meet the language of claim 3 since claim 3 requires that the controller sets the inlet and outlet "into said first conditions during normal, electricity-producing fuel cell operation...and...into said second conditions

during purging of said fuel cell stack." There is no suggestion, and therefore no teaching of purging in McElroy. To anticipate, "every element of the claim" must be taught in a single reference (MPEP 2131). Since McElroy is concerned with low power versus high power operation, and is not concerned with purging, McElroy cannot possibly teach the elements of claim 3.

Claim 1 has been cancelled and incorporated into claim 3 and into claim 7. Claim 3 is patentable for the reasons set forth with respect to claim 1 hereinbefore; claim 3 is patentable on its own as described above.

As to claim 5, claim 1 calls for at least three groups; thus, in claim 5, said first and second groups cannot possibly include said last group. Said last group has to be third, fourth, fifth or higher. The last group cannot be the second group because claim 1 calls for three groups. And in McElroy, there is not one valve treating the last group and another valve treating two other groups as called for in claim 5.

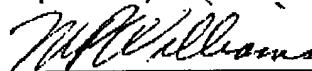
For all the foregoing reasons, reconsideration and allowance of claim 3, as well as claims 2-6, which now depend from claim 3, is hereby respectfully requested.

3,4. Claim 4 is rejected as obvious over McElroy in view of Chen et al (Chen). Granted that a valve may be equivalent to a blower in some circumstances, that does not help the rejection of claim 4. First of all, claim 4 is patentable for the same reasons as claim 1. Secondly, as is described with respect to claim 5 hereinbefore, claim 1 calls for three groups; claim 4 calls for a valve between the source and a first group and a valve between the source and at least said second and third groups. The second and third groups cannot possibly be made up partly by the first group because claim 1 calls for three groups. Therefore, even if one were to substitute a valve for the blower 420, the language of claim 4 would still not be met. For all the foregoing reasons, and because claim 4 depends from allowable claim 3, reconsideration and allowance of claim 4 over the references is requested.

5,6. Claim 7 has been placed in independent form and therefore claims 7-11 are now allowable.

7. Should the foregoing not be persuasive, a telephone call is earnestly solicited.

Respectfully submitted,



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Date: February 17, 2004